

America's Invitation to the World

Was the Homestead Act the First Accommodating Immigration Legislation in the United States?

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The Homestead Act of 1862 is universally recognized as a land law. The 37th Congress of the United States designed this legislation to distribute the available public lands to private individuals. People could receive free title to 160 acres if they were willing to live on, cultivate and improve the land. It is an undeniable fact, regardless of its perceived effectiveness, that the goal was to distribute land, thus making it a land law. However, it was much more. In fact, the Homestead Act was the first accommodating immigration law; providing all necessary requirements for citizenship to individuals wanting to come homestead the public lands of the United States. By examining the Congressional Debates and studying the language used in the narrative of the Homestead Act, it becomes apparent that the 37th Congress intended to use the Homestead Act as a way to build an agricultural nation by encouraging immigrants to settle the public lands of the United States.

The Debates of the 37th Congress

After secession, the 37th Congress was overwhelmingly occupied by Lincoln-Republicans. In fact, there were 42 Representatives left in the house, of those 31 were Lincoln-Republicans, seven were Democrats, and four were members of the Constitutional Union Party. It is no surprise that the House Republicans would move to encourage a Homestead Act considering the National Party Platform issued at the Republican National Convention on May 17, 1860 clearly stated in item #13 that the party “protested against any sale or alienation to others of the Public Lands held by actual settlers, and against any view of the Free Homestead policy which regards the settlers as paupers or suppliants for public bounty; and we demand the passage by Congress of the complete and satisfactory Homestead Measure which has already passed the House.”¹

While most were in agreement that the western territories should be opened for homesteading the timing of the legislation was an issue because many viewed the public lands as a source of collateral for the public debt. In addition, the question of who could homestead was at the forefront. Was it going to be for American Citizens only? Or were immigrants going to be allowed to participate? If immigrants were going to be allowed, what rules were going to be instituted to govern their ability to participate?

The debate landed on the floor of congress. Indiana Congressman George Julian was adamant about providing free homesteads because he thought the unoccupied public lands were unproductive, yielding no taxes and costing too much to administer. He argued, “The Governments purpose is, or ought to be, to have the public lands settled and improved, and

¹ Republican Party Platform, May 17, 1860.

thereby made the subject of taxation and the sources of wealth to the Government.”² He cites the Secretary of the Interiors report that claims the money generated from selling the public lands barely covers the cost to administer them. Further claiming, that he believed the “lands have ceased to be of any practical or substantial benefit to the country as a source of revenue.”³ In this respect he was correct. The public lands were expensive to manage and the revenue from them was only covering the costs of administration. For many, it was the belief that giving the lands away would reduce the government’s costs and increase the productivity of land leading to money generated for taxes.

However, with the Civil War in full scale, some northern congressmen saw the public lands as collateral for the debts they were incurring from the cost of war. A new faction of hardliners opposing the Homestead Act emerged led by then Congressman Justin Morrill from Vermont. He articulated this new opposing viewpoint when he argued, “It must be admitted that here at home, among our own financiers, as well as among those abroad, the public lands are a resource that is relied upon as a security for the payment of our public debt.” And to consider the Homestead Law during a time of war was a “suicidal policy”.⁴ Wisconsin Congressman John Potter, head of the Committee for Public Lands was surprised to find opposition to the Homestead Act by those who had once supported its passage. He scolded the opposition saying:

I hope those gentlemen who have been friends of the homestead policy, who have in years gone by advocated that policy will not shrink from accepting it now that it is within our reach. We know the source of the opposition to this bill. We know from whence has proceeded such opposition heretofore. It is from the very men who are now engaged in a wicked rebellion against the Government... I am sorry that there should be any person in this House opposed to this rebellion and opposed to land monopolies that will stand up here and ask that this beneficent measure shall be postponed.⁵

Congressman Isaac Newton Arnold from Illinois was among the most adamant defenders of the Homestead Act, and in pushing for its consideration after Congressman Potter, he said:

I urge the early passage of the homestead bill as a matter of importance in promoting the public credit, and providing the means of meeting the extraordinary expenses which the present condition of the country demand. The public domain has never been the source of any very large amount of revenue to the Treasury. I believe that it never will, so long as it remains unoccupied and uncultivated, be the source of any very large amount of public revenue. In my judgment, the best mode of making them productive, and to add to the security which the country can afford to those who loan her money at the present time, will be to invite settlement at as early a day as practicable. ... If they remain in their present condition they will neither add to the wealth nor the prosperity of the country, nor will they add to the revenue of the country. But there are those ready to go upon those public lands, there are the immigrants from the old world ready, so soon as you pass this

² Congressional Globe, 37th congress 2d session, 136.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

homestead bill, to go upon these wild lands, and to convert them into productive farms, by which the aggregate wealth of the country will be largely increased.⁶

Congressman Arnold saw production on the public lands as being the source of revenue, and he thought a “liberal policy of the homestead bill” should be adopted to invite immigration to the west; at which point the population increase would create new towns, cities, and eventually states.⁷

Congressman Arnold’s argument was an ambitious desire to use the Homestead Act as an invitation to potential settlers in the “old world”. Congressman William Kelley from Pennsylvania supported Congressman Arnold’s pro-immigration stance with respect to homesteading. He argued that, “Bread is high, employment scarce, wages are low in Europe, and there will be a tide of men flowing into our country that will give value to those lands.”⁸ He continued poetically:

Let the people of Europe see that the patriotic people of the country are carrying on the ordinary pursuits of life notwithstanding the abstraction of half a million of men from their number; let them see that the glorious deeds of our Navy are followed up by prompt and well-directed blows from the Army; and there will come from Britain and from all Europe a flow of men that will give to the Northwest population and to the country revenue from its lands.⁹

Not all congressmen were as convinced as Congressman Kelley that immigrants were going to come and generate the wealth from the public lands needed to fund the war, but many were open to the idea of immigrants being allowed to claim homesteads in the event that the legislation passed. Congressman William Vandever from Iowa was convinced that populating the public lands would increase the wealth and security of the United States, and he understood that immigration was a valuable resource to ensure the success of settlement in the West. He claimed that if the public lands are opened to actual settlers that a “tide of immigration will pour in upon them, and the settlement and occupation of them will increase immeasurably the basis of credit of the Government.”¹⁰ And by transferring the public lands to private citizens; creditors could not call upon the U.S. government to sell the public lands; instead the taxes generated by cultivation would be the source of revenue needed to pay public debts.¹¹ Giving away land is quiet an incentive for potential immigrants, distributing it indiscriminately does not ensure that the immigrant will become a citizen.

Homestead Act and Naturalization

It is important to note that Congressman Vandever used the term “private citizen”. According to the naturalization laws immigrants would not be private U.S. citizens until they had declared their intentions to become a citizen and lived in the U.S. for a period of five years. But

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

by examining the language and requirements of the Homestead Act, all the requirements of naturalization are met. In the first section of the Homestead Act it states, “That any person who is... a citizen of the United States, or who shall have filed his declaration of intention to become such” is entitled to file a claim. The argument that a person does not know the naturalization law is irrelevant to potential immigrant homesteaders because in order to file a claim they would have to declare their intentions to become a citizen. In that respect the Homestead Act took care of the first criteria of naturalization. Secondly, potential citizens were required to live in the U.S. for five years. The Homestead Act also provides for this requirement in section two; “No certificate shall be given or patent issued therefor until the expiration of five years from date of such entry.” In short, in order to receive the land, claimants had to live on and cultivate the land for five years, the exact amount of time required to become a U.S. citizen. The Homestead Act becomes an accommodating immigration law by providing a credible reason to enter the United States, it ensured the criteria of the naturalization laws were met, and it ensured immigrants becoming citizens were exposed to and would adhere to the Constitution and its principals.

Immigration Law, Naturalization Law, and the Homestead Act

The Homestead Act was the first piece of legislation to include all the necessary components to be considered an accommodating immigration law. The Act did not exclude any person based on race, gender, or nationality. In addition, it provides, within the language of the law, everything required of immigrants to become naturalized citizens. Congressman Potter understood this component of the Homestead Act and vehemently argued for immigrants to have access to land in the United States under the legislation. He said:

Immigration has almost ceased, and the present unsettled condition of Europe, tending to a general war on that continent, should invite, on our part, the adoption of the most liberal policy, which will induce the immigrant to seek a home here, and invest his capital and direct his labor to the development of the now unproductive resources of the country. ... We shall do all in our power to invite immigration and capital to our unoccupied public lands.¹²

Congressman Potter echoed the majority sentiment in congress and, in many respects the nation.

On May 17, 1862 word of the impending passage of the Homestead Act and the possibility of a railroad coming through Kansas, the Big Blue Union newspaper in Marysville, Kansas reported, “Never again shall we have to appeal for immigration or ask from generous hearts the help demanded by a new and famine stricken people.” The same article claimed that these laws would “be of incalculable advantage to Kansas.”¹³ Less than a month after the passage of the Homestead Act, the New York Times reported that immigration has increased after being stagnant and experiencing decline. The article said:

Europeans have learned of the immense extent of our country and its limitless resources... They have also begun, or soon will begin, to learn of the Homestead law, and

¹² Ibid.

¹³ Editorial, *The Big Blue Union*, May 17, 1862.

provisions for securing to every man not only life, liberty and the freedom to pursue happiness but also the means of gaining an independent livelihood.¹⁴

In November of 1862, Robert Walker, respected economist, former Senator, and fourth Territorial Governor of Kansas, wrote of the benefit the Homestead Act would offer the European immigrant. He notes the annual price of rent for a single acre in England exceeds the price to file the paperwork and own 160 acres of land in America. Furthermore the Homestead Act provided the option to grow choice crops, live in desirable locations, and pick the neighbors they wanted to live near. He called on those being refused suffrage, toiling without ownership, bound by poverty and refused education to come to America and claim land under the Homestead Act. Here they could have “freedom, competence, the right of suffrage, the homestead farm, and free schools for his children.”¹⁵

Many members of congress and those in the general public saw the vast expanses of the West as having inexhaustible resources, room for all, and the potential to build a stronger nation through immigration and agriculture. Westward expansion it was believed by many would encourage overcrowded cities in both Europe and America to send their surplus west. Impoverished immigrants looking for opportunity could find it out west. The previously mentioned New York Times article spoke to a certain class of European that would be welcome; the report welcomed the common man, claiming that “the common people of Europe do not suffer from the ignorant prejudices that affect the aristocratic and snobocratic classes. They do not rejoice over the collapse of democracy.” Furthermore the article states:

The ‘immigrant’ coming here this year is, in general, as fine a class as ever landed upon our shores. ... Most of them are farmers, mechanics and artisans, and have come here on their way to the West. ... They find themselves welcomed to this country, which they know their rulers, and their Press, and their Parliamentary spouters have abused; and they find that here, even now, there is work, there is land, there is a home and plenty for all.¹⁶

It was nearly universally accepted that there were more resources than people and that the West was a sufficient destination to accommodate the surplus laborers in Eastern U.S. cities as well as the European Immigrant. This in turn, it was believed, or at least hoped, would generate unprecedented wealth from agriculture and industry.

Results

The result of the Homestead Act of 1862 and the effect it had on immigration is difficult to quantify in that no statistics were kept to track causation, but there is statistics that flesh out a correlation between the two. By 1870, seven years after the Homestead Act went into effect;

¹⁴ Editorial, *The New York Times*, June 13, 1862.

¹⁵ Robert J. Walker, “The Homestead Bill,” *The Continental Monthly: Devoted to Literature and National Policy* 2, no. 5 (1862): 629.

¹⁶ *New York Times*, June 13, 1862.

population data highlights the immediate impact on immigration to the Great Plains. The 1870 census reveals New York's foreign born population was 26% of the total population, the highest of any on the Atlantic Coast. However, this would have been well behind the homesteaded states of Wyoming and Montana who both had 39%, and the Dakota Territory boasted a foreign born population of 34%. Nebraska's 25% put it one percentage point behind New York. Even Kansas still had a substantial 13% of its population born in a foreign country.

The percentage of foreign born individuals in the population is further highlighted by the population increases in these states. Nebraska's population increased over 425% in the same decade from just fewer than 29,000 to seven short of 123,000. Kansas saw an increase from 107,000 to 364,000, nearly 340%, and the Dakota Territory jumped from 4,800 to 14,181, an increase in 293%. Wyoming and Montana had an official population of 0 in 1860 and by 1870 Wyoming had 9,118 and Montana leaped to 20,595. The total population of states and territories (excluding Texas) west of the Missouri River in 1860 was 759,860, and those same states' population nearly doubled to 1,492,092 by 1870.¹⁷ The correlation does not end in the 19th century. In fact, this was evident well into the 20th century when the peak years in immigration, 1905-14, also coincides with the peak years in homestead claims.

The Homestead Act was the first of its kind to accommodate immigration and provide the necessary requirements for naturalization. The legislation went beyond simply providing an incentive to come to the United States; it integrated the components for citizenship as well. By requiring a declaration of intention to become a U.S. citizen in order to file for a homestead the first component of the naturalization process was met. Furthermore, the Homestead Act required a 5 year residency period to ensure a potential settler would improve the land. This satisfied the second requirement in the naturalization process. No previous bill in U.S. history went so far to invite immigration and to provide a clearly defined path to citizenship. In many respects, it protected the immigrant homesteader from potential exploitation; succeeding where other immigration law had failed. Land and immigration in the United States have been bound throughout the nation's history, so it is fitting that the first accommodating immigration law was actually a land law.

¹⁷ *Tenth Census of the United States*, 1880. See chart Table #1 in the Appendix.

Appendix

Immigration Legislation Matrix Series

Matrix #1

Naturalization Acts of 1790, 1795, 1798, 1802

Accommodating		
Restrictive	X	
	Yes	No

Provided Components For Naturalization

Matrix #2

Preemption Act of 1830

Accommodating		X
Restrictive		
	Yes	No

Provided Components For Naturalization

Matrix #3

The Homestead Act 1862 (1st Of This Kind)

Accommodating	X	
Restrictive		
	Yes	No

Provided Components For Naturalization

Data collected from the *Tenth Census of the United States, 1880*

Table 1

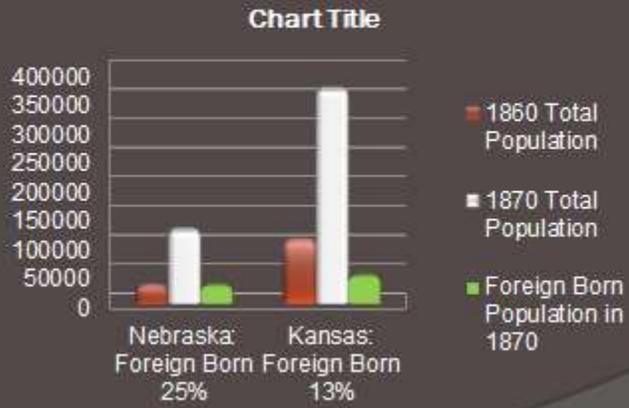


Table 2



Table 3

Native Born Versus Foreign Born Population

Totals In Nebraska, Kansas, Dakotas, Wyoming, And Montana

